



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101

Rose, Martha
MOD 9806 33069
11-6
American Steel Workers
10-1-86

October 1, 1986

TELEPHONE CONVERSATION RECORD

SUBJECT: Docket No. 86-F-0015 (Telephone Call of 9/30/86)

FROM: Martha R. Steincamp
Deputy Regional Counsel

TO: Jim Anderson
Attorney for Martha C. Rose, American Steel et al.

I called Mr. Anderson to ask if his clients were going to respond to the above order. I did not get a yes or no answer. Instead, I was on the listening end of a 30-minute statement by Mr. Anderson that included the following points:

1. His clients didn't trust the government.
2. The EPA inspectors were inept in their sampling, e.g., used a bottle marked "Alcohol," dropped a rag, etc. His clients knew how and had sampled and analyzed correctly and their results were different than ours. Their results showed "little or no contamination."
3. They had a plan, but Tripp "poisoned the deal" by calling the city. Mr. Anderson said a "woman negotiator in Dallas 'once told him you couldn't negotiate in a fish bowl.'" I reminded him that in a previous conversation with Tripp, Anderson and me, we had inquired whether he had contacted the city and advised him to do so. Our subsequent contact with the city was to inquire if they had been contacted. Mr. Anderson continued on his previous assertion that had the city not been contacted, they had a deal.

I reminded him of our phone calls to him and his failure to respond as promised. He asked me if I knew when he got the order; I said yes, late Friday afternoon. He said at 3 minutes until 5:00 p.m.; and that the order was unreasonable in requiring response by close of business Wednesday. I said no, by close of business on Tuesday, and further that the requirements of the order were the same as previously requested of his clients through him and directly on three previous occasions: the phone call with Buckheit, Anderson and me three weeks ago, at a meeting in our offices on



40035869
SUPERFUND RECORDS

September 19, and in a letter of that same date. The requests were not new or different and as of yet, we had received no response, only promises of a response. Mr. Anderson then complained about the meeting on September 19, 1986, specifically there were too many people there and he didn't like some of the people who were there because, in his words, "they're out to get Rose any way they can."

He then started talking about the desires of American Steel. He said they wanted to remain in business, but if we drove them out of business, a new corporation would be formed with all new people, directors, etc., and it would continue in business because we couldn't touch it ... he would see to that and assure that because he would be creating the new corporation.

I asked him about the inventory he promised. He said his clients didn't trust us, that there were eight pieces of equipment they wanted which they would decontaminate. I asked him what the eight pieces were, that I would take them down. He said he wouldn't tell me because those were the first things the government would seize. I said we weren't seizing anything, we were requesting that equipment removed from the Holden facility be properly decontaminated or disposed of if decontamination wasn't done. He said he didn't have test data; I reminded him he was given a copy at the September 19 meeting and that all data were attached to the order. He still insisted he didn't have it; then started reading to me from it. He said his client had also tested and obtained different results. He also reiterated our testing was bad. I asked what and where they had tested, he said he didn't know and then started talking about how a federal judge, when he heard what had happened, would most certainly tell us to let them have the eight pieces of equipment and let them decontaminate and go ahead with their business. I asked where they proposed to decontaminate; he said until the deal was poisoned, they were going to the city with a plan on how they'd do it at the Charlotte Street address. It would merely entail a wipe down with a rag soaked in solvent, not a pouring or spraying of solvents on equipment. I reminded him that the regs did not provide for this, that his clients would have to obtain approval from the Regional Administrator. He said he knew this. He then began complaining about the clean-up standard. He said EPA's standard was 50 ppm, but that we were trying to impose a stricter standard - 10 ppm. I explained that because the equipment was to be used in a workplace, the relevant standard was a NIOSH workplace standard. He said this was illegal, EPA's standard was 50 ppm and that was the only one we could impose. He said his clients had gone to OSHA to discuss and this wasn't within our jurisdiction. I asked who they had talked with at OSHA - he said he didn't know, he wasn't there. I explained again why we were using that standard and tried to explain the lack of relevance of 50 ppm to what we were asking his clients to do.

He said the federal government could do anything they wanted, including stepping over the city's zoning requirements. He said we were just finding ways to make it impossible for his clients to remain in business, including seizing his clients' equipment. He said he thought the only resolution was to have a federal judge review the situation and tell us to lay off. He was certain that under the circumstances, a federal judge would order us to let them take the equipment and decontaminate it. He said he viewed any action by us as a seizure. I explained we were trying to assure that the PCB contamination was not spread further and that we had the authority to do this under Superfund. He said the standard should be that if they had done something which injured human beings, then we could do it. I said the standard was a determination by the Regional Administrator that the situation may present an imminent and substantial endangerment to human health, welfare and the environment. I reminded him that the equipment was not secured where it currently was located, that access was not limited and that in many cases, it was out in the open where rain fell on it and possibly washed contamination off of it onto the ground. We didn't want PCBs spread around.

I finally asked what all this meant - were they or were they not going to respond as previously requested on at least three occasions. He said he was going to write a letter. He said they had made an offer which we rejected. I said we hadn't rejected anything because no specifics had been proposed. He said their plan was "queered" by the call to the city and that we were trying to assure there was no viable defendant. He said that's what Mr. Buckheit wanted to assure that there was a viable defendant. He said he "appealed" the city's abatement order. I asked when; he said a few days ago. He was very vague about his "appeal."

I concluded by saying I had received several calls and needed to respond to those. I asked if he was going to list the equipment in his letter. He said he would.